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September 16, 2013

VIA ELECTRONIC DELIVERY

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Request for Waiver of WMATA, PS Docket No. 13-87

Dear Ms. Dortch:

Motorola Solutions, Inc. (“Motorola Solutions”) writes in support of the request of the Washington Metropolitan Area Transit Authority (“WMATA”) for waiver of the Federal Communications Commission’s (“Commission’s”) rules as necessary to allow WMATA to use a subset of the twenty-four 700 MHz public safety narrowband reserve channels on a permanent basis.¹ Grant of the WMATA waiver is supported by the neighboring jurisdictions that would be most affected by this action and would serve the public interest by allowing WMATA to migrate critical communications networks without any discontinuity of service.

As explained in the WMATA request and its recent *ex parte* presentation,² WMATA requires access to additional spectrum to replace operations conducted in the UHF “T-Band” (470-512 MHz), which will be reclaimed by the Commission pursuant to the Middle Class Tax Relief and Job Creation Act of 2012.³ The reserve channel spectrum will be used in the design and deployment of WMATA’s next-generation radio system supporting security, operations, maintenance, public safety, and emergency communications on its transit system and across the National Capital Region (“NCR”). WMATA explains that it has considered alternatives to the 700 MHz reserve channels, and to date has found none that would provide sufficient capacity in the timeline required.⁴ If the waiver request is granted, WMATA has committed to working with the Region 20 700 MHz Regional Planning Committee, the State of Maryland, the

¹ Request for Waiver of WMATA, PS Docket No. 13-87 (filed June 18, 2013) (“WMATA Waiver Request”).

² See Washington Metropolitan Area Transit Authority, Notice of Oral *Ex Parte* Communications, PS Docket No. 13-87 (filed Aug. 19, 2013) (“WMATA *Ex Parte*”).

³ Pub. L. No. 112-96, 126 Stat. 156 (2012).

⁴ WMATA Waiver Request at 1-2.

Commonwealth of Virginia, and the District of Columbia to identify which reserve channels can be implemented in the system.⁵

WMATA's request is similar to that of the Los Angeles Regional Interoperable Communications System Joint Powers Authority ("LA-RICS"),⁶ on which the Commission sought comment on January 11, 2013.⁷ LA-RICS also sought access to the 700 MHz reserve channels to support its next generation radio system and facilitate eventual T-Band migration. In its April 1, 2013 Notice of Proposed Rulemaking on changes to the rules governing the 700 MHz narrowband spectrum, the Commission further discussed the LA-RICS waiver request and sought comment on whether it should make available some or all of the reserve channels for permanent use.⁸

A rule waiver is appropriate here.⁹ As detailed in WMATA's *ex parte* filing, the next generation radio system will provide critical communications across approximately 1600 square miles of the NCR and will provide seamless interoperability for public safety.¹⁰ Denial of the waiver would delay the deployment of this new system and force WMATA to continue spending its limited financial resources maintaining its existing communications system.

Additionally, the Commission should find that it is in the public interest to move directly to a waiver order without the need for a further Public Notice.¹¹ There has already been ample opportunity for notice and comment on this matter. As noted above, LA-RICS requested a similar waiver in December, 2012. The Commission placed that waiver on Public Notice and received comment.¹² Subsequently, the Commission sought further comment on the LA-RICS waiver, as well as taking action generally with respect to making the narrowband reserve channels available in the *700 MHz Narrowband Notice*.¹³

⁵ *Id.* at 2-3.

⁶ Request for Waiver of Section 90.531(b)(2) filed by Los Angeles Regional Interoperable Communications System Joint Powers Authority (field Dec. 2, 2012).

⁷ Public Safety and Homeland security Bureau Seeks Comment on Request for Waiver by Los Angeles Regional Interoperable Communications System Joint Powers Authority to Apply for 700 MHz "Narrowband Reserve Channels," RM-11433, *Public Notice*, 28 FCC Rcd 168 (PSHSB 2013) ("*LA-RICS Waiver Public Notice*").

⁸ See Proposed Amendment to the Service Rules Governing Public Safety Narrowband Operations in the 769-775/799-805 MHz Bands, *et al.*, PS Docket No. 13-87, *Notice of Proposed Rulemaking*, 28 FCC Rcd 4783, ¶¶ 117-120 (2013) ("*700 MHz Narrowband Notice*").

⁹ Section 1.925 of the Commission's rules requires a waiver petitioner to demonstrate either that "(i) [t]he underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the waiver would be in the public interest or; (ii) [i]n view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative." 47 C.F.R. § 1.925(b)(3).

¹⁰ WMATA *Ex Parte* at 1-2.

¹¹ See 47 C.F.R. § 1.925(c) (giving the Commission discretion with respect to issuing a public notice).

¹² *LA-RICS Waiver Public Notice*.

¹³ See *700 MHz Narrowband Notice*, ¶ 120.

The proposal to make a subset of the reserve channels available for licensed use on a permanent basis received wide support from commenters.¹⁴ There is also a compelling record in support specifically of the WMATA waiver. In its initial Comments, the State of Maryland suggested that WMATA's spectrum needs should be addressed through Commission action on the reserve channels.¹⁵ Additionally, the Region 20 700 MHz Regional Planning Committee (which includes the NCR) and Loudoun County, Virginia have each filed comments urging Commission action on the waiver request.¹⁶ Importantly, the RPC has unanimously adopted a resolution supporting grant of the reserve channel spectrum to WMATA.¹⁷ In light of this record of support, there is no need to seek comment a third time on essentially the same issue.

Because access to the reserve channel spectrum would serve the public interest in security and interoperable communications in the NCR—and a robust record has been developed that includes the support of the relevant RPC and other key regional stakeholders—Motorola Solutions urges the Commission to grant WMATA's waiver request.

Respectfully submitted,

/s/ Catherine W. Seidel

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¹⁴ See, e.g., Comments of Motorola Solutions, Inc. at 7-9, PS Docket No. 13-87 (filed June 18, 2013); Comments of the National Public Safety Telecommunications Council at 5-6, PS Docket No. 13-87 (filed June 18, 2013); Comments of the National Regional Planning Committee at 11-12, PS Docket No. 13-87 (filed June 18, 2013); Comments of the Association of Public Safety Communications Officers at 4-5, PS Docket No. 13-87 (filed June 18, 2013); Comments of Harris Corporation at 9-10, PS Docket No. 13-87 (filed June 18, 2013); Comments of State of Maryland at 21-22, PS Docket No. 13-87 (filed June 18, 2013).

¹⁵ State of Maryland Comments at 22.

¹⁶ See Letter from Wayne A. McBride, Chairman, Region 20 700 MHz Regional Planning Committee to Marlene H. Dortch, Secretary, Federal Communications Commission, PS Docket No. 13-87 (filed Aug. 6, 2013) ("RPC 20 Letter"); Letter from Mick Lemish, Public Safety Division Manager, Department of Information Technology, Loudoun County, Virginia to Marlene H. Dortch, Secretary, Federal Communications Commission, PS Docket No. 13-87 (filed Aug. 14, 2013).

¹⁷ See Resolution of Support (*attached to* RPC 20 Letter).